

THE COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

NYNEX/Teleport Arbitration) D.P.U. No. 96-73/74

NYNEX/Brooks Fiber Arbitration) D.P.U. No. 96-75

NYNEX/AT&T Arbitration) D.P.U. No. 96-80/81

NYNEX/MCI Arbitration) D.P.U. No. 96-83

NYNEX/Sprint Arbitration) D.P.U. No. 96-94

RESPONSE OF

Z-TEL COMMUNICATIONS, INC.

Z-Tel Communications, Inc. ("Z-Tel"), by its undersigned counsel, hereby files its response to Bell Atlantic-Massachusetts' ("BA-MA's") December 1, 1999 Unbundled Network Element Provisioning filing in the above-captioned proceedings. In this response, Z-Tel first provides the Department with an overview of Z-Tel and its business plan. Next, Z-Tel, based on its understanding of BA-MA's filing, offers cautious support of the portion of BA-MA's policy Comments regarding the unbundled network element platform ("UNE-P"). Z-Tel goes on to note that, while it cautiously supports BA-MA's UNE-P offering from a policy perspective, the Department should require BA-MA to document the terms, conditions, and prices of its UNE-P offering in BA-MA's Tariff 17 to ensure that all parties correctly understand the exact workings of BA-MA's UNE-P offering.

I. OVERVIEW OF Z-TEL

Z-Tel is a Tampa, Florida-based integrated communications provider that is focused on providing local, long-distance, and enhanced services to residential consumers. In June of 1999, Z-Tel launched a residential service product in New York City and the surrounding areas that comprise LATA 132. Z-Tel's residential service offering in New York includes a package of long distance, unlimited local calling, voicemail, caller ID, "follow-me," and a number of other enhanced services. Residential customers also may purchase dial-up Internet access as part of their service package.

Z-Tel delivers its telecommunications services to residential customers in New York over the UNE-P in New York. Z-Tel provides the long distance and enhanced services portions of its package. Z-Tel plans to use the UNE-P as an entrance strategy to build a large base of residential customers to achieve the economies of scale necessary to deploy facilities. Upon achieving the necessary scale, Z-Tel's business plan calls for deploying the next generation of Class 4 and Class 5 packet switches.

Z-Tel's business plan calls for a residential service roll out in Massachusetts during the first quarter of 2000. As in New York, Z-Tel plans to roll out residential local exchange service in Massachusetts through purchasing BA-MA's UNE-P offering. Therefore, the ultimate terms, conditions, and prices of BA-MA's UNE-P offering is of critical importance to Z-Tel.

II. BASED ON ITS UNDERSTANDING OF BA-MA'S POLICY COMMENTS, Z-TEL CAUTIOUSLY SUPPORTS BA-MA'S UNEP OFFERING

Z-Tel cautiously supports the UNE-P policy proposal contained in BA-MA's December 1, 1999 Comments. Z-Tel understands that BA-MA presently is converting existing retail and resale customers to the combination of network elements known as the UNE-P without service restriction, at rates that equal the sum of the individual underlying UNEs, and with a single service ordering charge per order submitted to BA-MA. As Z-Tel understands it, BA-MA has proposed no additional charges (*e.g.*, glue charges or flip charges) on migrations of already-combined network elements to the UNE-P. Moreover, BA-MA appears to offer, as part of its UNE-P proposal, to provide unbundled local switching, unbundled shared transport, and operator services/directory assistance for new and existing UNE-P combinations according to the UNE terms, conditions, and prices presently effective in Massachusetts. In making this commitment, BA-MA recognizes that the Federal Communications Commission's ("FCC's") recent UNE Remand Order may permit certain restrictions on the availability of these items as UNEs under section 251(c)(3) of the Communications Act of 1934, as amended ("Act").

Although BA-MA's UNE-P filings appear to have proposed no unique rates terms, conditions, or service restrictions on existing combinations of network elements, BA-MA previously has proposed substantial limitations on new UNE-P combinations. Specifically, in its June 18, 1999 compliance filing, BA-MA proposed:

- Limiting new UNE-P combinations to basic local exchange service and Basic Rate Interface ISDN service;
- Limiting new UNE-P combinations to central offices in which no collocations exist;
- Assessing glue charges on new UNE-P combinations;
- Assessing "quick flip" charges on certain retail and resale circuits converted to UNE-P; and
- Offering to provide new UNE-P combinations only until 2003.

In its December 1, 1999 filing, however, BA-MA "reassessed" its decision to attempt to place these conditions on new UNE-P combinations. To that end, BA-MA has stated that it will "voluntarily provide [UNE-P combinations] even where the loop and local switching element comprising the UNE-P do not already exist in combined form ... under the same terms as for existing loop and local switching combinations." Z-Tel

therefore understands that BA-MA no longer seeks to impose restrictions on new UNE-P combinations.

In sum, based on the above-described understanding of BA-MA's December 1, 1999 policy filing, Z-Tel cautiously support BA-MA's UNE-P proposal.

III. THE DEPARTEMENT SHOULD REQUIRE BA-MA TO INCLUDE ITS UNE-P OFFERING IN TARIFF 17

Although Z-Tel offers cautious support of BA-MA's UNE-P policy proposal, Z-Tel submits that the exact parameters of BA-MA's offering remain unknown. BA-MA's Comments outline, at a policy level, how BA-MA plans to offer the UNE-P in Massachusetts. BA-MA thus far, however, has not provided a rigorous description of the UNE-P as BA-MA has done for all other UNEs and UNE combinations, including the Enhanced Extended Loop and the Switch Subplatform. In order for Z-Tel, the Department, and others to gain a full understanding of BA-MA's UNE-P offering, the Department should require BA-MA to include its UNE-P offering in Tariff 17.

Z-Tel fully supports efforts by this Department to require BA-MA to tariff all UNE-related items. A tariffing requirement provides at least three benefits. First, through the tariff review process, which often provides opportunity for public comment, the Department can verify that BA-MA's offerings comport with the Department's findings. Second, with the ability to cite to a specific tariff reference, competitors can seek Department review of terms, conditions, or prices that should be re-evaluated based on the real-world experience of carriers. Third, tariffs are easy to administer, as Department-approved modifications become generally available to all requesting carriers.

In states that do not require the incumbent to tariff interconnection and UNE offerings, it is typically much more difficult for competitors, such as Z-Tel to: (1) ensure compliance with state commission orders, including arbitration awards; (2) seek a modification to the rates, terms, and conditions of an offering; and (3) gain access to new offerings obtained by others. Although the Act does not require interconnection and UNEs to be tariffed by incumbents, the Department should recognize that its tariffing requirement, and that of other state commissions has substantially improved the flow of information regarding the prices, terms, and conditions of critical UNE and UNE combination offerings.

Lastly, Z-Tel notes that Bell Atlantic has tariffed its UNE-P offerings in New York and in Pennsylvania. There is simply no reason BA-MA should not similarly document its UNE-P offering in Massachusetts.

IV. CONCLUSION

For the reasons outlined above, Z-Tel cautiously supports BA-MA's UNE-P policy proposal, but recommends that the Department require BA-MA to include its UNE-P offering in

Tariff 17 to eliminate existing ambiguity surrounding the terms, conditions, and prices of this critical combination of network elements.

Respectfully submitted,

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